

Item # _____

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Assistant County Attorney

Approved by: Christy L. Kinard
Assistant County Attorney

RESOLUTION REQUESTING THE SHELBY COUNTY HEALTH, EDUCATION AND HOUSING FACILITY BOARD, THE MEMPHIS AND SHELBY COUNTY CENTER CITY REVENUE FINANCE CORPORATION, AND THE MEMPHIS AND SHELBY COUNTY INDUSTRIAL DEVELOPMENT BOARD TO ADOPT POLICY CHANGES RELATIVE TO ISSUING BONDS; AND REQUESTING THE MEMPHIS CITY COUNCIL ADOPT A RESOLUTION TO EFFECTUATE SAME AS IT RELATES TO JOINT CITY-COUNTY BOARDS AND CITY BOARDS WHICH ISSUE BONDS. SPONSORED BY COMMISSIONER MIKE RITZ.

WHEREAS, the County of Shelby has allowed certain organizations to provide economic incentives including the ability to enter into tax exempt bond financing transactions in the name of the respective organization; and

WHEREAS, certain environmental concerns have been raised regarding the development of the Springdale Creek Apartments in the City of Memphis after the project had been studied and approved; and

WHEREAS, the environmental concerns raised in the Springdale Creek Apartments project were at least partially the cause for the cessation of construction of the project; and

WHEREAS, the unfinished project imposes a financial embarrassment on the authorizing entity and created a potential environmental risk to the residents of the apartment, neighbors and adjacent Springdale Elementary School; and

WHEREAS, the Summary Site History for Springdale Creek Apartments prepared by the Tennessee Department of Environment and Conservation and an article published by The Commercial Appeal on March 15, 2008 entitled "Velsicol, neighbors near deal" are attached hereto as Exhibits "A" and "B," respectively, and incorporated herein by reference, to evidence the risk to the organization and community; and

WHEREAS, no bonds should be issued to a new development which may harm the neighborhood around the project or the residents or employees of the project; and

WHEREAS, public exposure and transparency of environmental issues, if any, relative to a bond issuance should help to eliminate or reduce the possibility of creating an environmental risk to avoid expanding a pre-existing environmental risk, or to reduce environmental risks; and

WHEREAS, the Shelby County Board of Commissioners desires to request the Shelby County Health, Education and Housing Facility Board and the joint City-County boards that issue bonds to incorporate in their respective policies and procedures the requirements set forth below and to request the Memphis City Council to adopt the same resolution so as to effectuate the intent of this resolution as it relates to the Memphis and Shelby County Center City Revenue Finance Corporation and the Memphis and Shelby County Industrial Development Board and to include therein the Memphis Health, Education and Housing Facility Board.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF SHELBY COUNTY, TENNESSEE, that the Shelby County Health, Education and Housing Facility Board, the Memphis and Shelby County Center City Revenue Finance Corporation, and the Memphis and Shelby County Industrial Development Board be and are hereby requested to amend their policies and procedures as necessary relative to issuing bonds so as to require the following:

1. A bond project involving real estate must have a Phase I environmental site assessment ("Phase I Report") meeting all appropriate inquiry and ASTM standards sufficient to qualify the parties as an innocent purchaser for U.S. Department Environmental Protection Agency ("EPA") purposes. The Phase I Report shall be addressed to the county board or the city-county board issuing the bonds.
2. Any bond project involving single-family homes that does not have a Phase I Report must have a completed Builder's Certification of Plans, Specifications & Site form, a copy of which is attached hereto as Exhibit "C" and incorporated herein by reference, on file with the Memphis and Shelby County Health Department.
3. That all Recognized Environmental Conditions ("REC"), as defined by the EPA, that are raised in the Phase I Report be resolved prior to finalization and execution of the bond issuance.
4. Before the closing or recordation of any documents relative to the issuance of bonds, Phase I Reports and any REC correspondence made necessary by a Phase I Report performed on behalf of 1) The Shelby County Health, Education and Housing Board; 2) The Memphis and Shelby County Center City Revenue Finance Corporation; and/or 3) The Memphis and Shelby County Industrial Development Board shall be submitted to the Environmental Health Bureau administrator of the Memphis and Shelby County Health Department where the documents will be available to the public and remain open for public review.

BE IT FURTHER RESOLVED, That, by copy of this resolution, the Memphis City Council be and is hereby requested to adopt the resolution attached hereto as Exhibit "D" and incorporated herein by reference so as to make the intent of this resolution effective in its application to the Memphis and Shelby County Center City Revenue Finance Corporation and

the Memphis and Shelby County Industrial Development Board and to include the Memphis Health, Education and Housing Facility Board.

BE IT FURTHER RESOLVED, That this resolution shall take effect immediately, the public welfare requiring the same.

A C Wharton, Jr., County Mayor

Date: _____

ATTEST:

Clerk of County Commission

ADOPTED: _____